

ENTERED

April 28, 2023

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

RONALD JEFFERY PRIBLE,	§
Petitioner,	§
	§
v.	§
	§
BOBBY LUMPKIN, Director,	§
Texas Department of Criminal Justice,	§
Correctional Institutions Division,	§
Respondent.	§

H-09-CV-1896

ORDER

Texas death row inmate Ronald Jeffery Prible sent the Court a letter regarding his appointed representation. (Docket Entry No. 291). Prible complains about lead counsel Gretchen N. Scardino, says that he has dismissed her as his attorney, and asks for the appointment of new counsel. For the reasons discussed below, the Court will not replace Ms. Scardino at this time.

Habeas petitioners do not have “the right to counsel of their choice.” *Christeson v. Roper*, 574 U.S. 373, 377 (2015). In death penalty cases, an appointed attorney may be “replaced by similarly qualified counsel upon the attorney’s own motion or upon motion of the defendant.” 18 U.S.C. § 3599(e). District courts apply the “interests of justice” standard when determining whether to substitute appointed counsel. *See Martel v. Clair*, 565 U.S. 648, 652 (2012).

Ms. Scardino has provided zealous representation throughout her many years representing Prible. Most recently, Ms. Scardino and the other members of Prible’s legal team have filed a petition for a writ of certiorari in the United States Supreme Court. *Prible v. Lumpkin*, No. 22-6798. With the late stage of the legal proceedings, Ms. Scardino’s diligent representation, and the absence of any justifiable cause for her dismissal, the Court finds that removing Ms. Scardino is not in the interests of justice.

In an abundance of caution, the Court will allow Ms. Scardino to submit a pleading describing any concerns she may have about the representation within thirty (30) days from the entry of this Order. Ms. Scardino may file her pleading *ex parte* and under seal.

The Court directs Prible to submit any future motions or requests through his attorneys. Future *pro se* filings may be stricken from the record.

The Clerk will deliver a copy of this Order to the parties.

SIGNED at Houston, Texas, on this 28th day of April, 2023.



KEITH P. ELLISON
United States District Judge